

K.S.A. 44-505(a)(1) provides that the Kansas Workers Compensation Act does not apply to agricultural pursuits and employment incidental thereto. Claimant agrees that respondent's farm and ranch constituted an agricultural pursuit. Claimant also agrees that minor repairs to vehicles and equipment should be included as part of the agricultural pursuit. Claimant argues, however, that major mechanical repairs of the type normally done by an independent mechanic should not be considered part of the agricultural pursuit and on that basis asks the Board to reverse the ALJ's decision.

The distinction claimant draws is found in claimant's testimony that he had often done minor repair work on the vehicles but that anything "more involved" (P.H. p. 32) was done by an outside mechanic. Claimant testified he did not know why this work was not done by a mechanic. The Board notes claimant does not testify the specific work he was doing is normally done by a mechanic, only that more complicated work was generally done by a mechanic.

Even if some mechanical work might not fit within the parameters of agricultural pursuit, the Board concludes the work being done by claimant at the time of his injury does fall within this exclusion from the Act. The truck claimant was working on was used, in part, to move large bales of hay with a hydraulic lift on the back of the truck. The existing springs were not strong enough to handle the weight and respondent asked claimant to help replace the leaf springs. This work is, in our view, an integral part of the farm or agricultural operation.

Whether respondent met the payroll requirements of K.S.A. 44-505(a)(2) was also an issue before the ALJ. The Board has not addressed that issue because of the finding that claimant was injured in an activity incidental to an agricultural pursuit.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge Bruce E. Moore on February 14, 2000, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of March 2000.

BOARD MEMBER

c: James S. Oswalt, Hutchinson, KS
Edward D. Heath, Jr., Wichita KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director